

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/DTS)

This Document Relates To:

Rhoton, et al., 15-cv-4360-JNE-DTS
Heil, 16-cv-1930-JNE-DTS
Taylor, 17-cv-0199-JNE-DTS
Hylas, 17-cv-0967-JNE-DTS
Bucci, 17-cv-1073-JNE-DTS
Payton, 17-cv-1222-JNE-DTS
Prilo, 17-cv-1249-JNE-DTS
McKinney, et al., 17-cv-1503-JNE-DTS
Caruso, 17-cv-1985-JNE-DTS
Hayes, et al., 17-cv-2572-JNE-DTS
Luttrell, 17-cv-2992-JNE-DTS
Benson, 17-cv-3304-JNE-DTS
Barker, 17-cv-3806-JNE-DTS
Chapman, 17-cv-3850-JNE-DTS
Renfroe, 17-cv-3914-JNE-DTS
Ray, 17-cv-4214-JNE-DTS
Burch, 17-cv-4288-JNE-DTS
Capone, 17-cv-5274-JNE-DTS
Kappmeyer, 18-cv-00515-JNE-DTS
Syler, 18-cv-0525-JNE-DTS
Dollard, 18-cv-0776-JNE-DTS
Beard et al., 18-cv-0833-JNE-DTS
Gohl, 18-cv-1571-JNE-DTS
Sahr, 18-cv-1712-JNE-DTS
Hiser, 18-cv-2289-JNE-DTS

**MEET AND CONFER STATEMENT
REGARDING DEFENDANTS'
SIXTH MOTION TO DISMISS
CASES FOR FAILURE TO
COMPLY WITH PRETRIAL
ORDER NO. 23 AND/OR
FED. R. CIV. P. 25(a) AND 41(b)**

The undersigned counsel for Defendants 3M Company and Arizant Healthcare Inc. (collectively “Defendants”) certifies that counsel for Defendants met and conferred with counsel for Plaintiffs in the above-referenced matters as follows:

1. On February 5, 2019, Defendants’ counsel sent emails to counsel at each of the firms representing the above plaintiffs, requesting that they stipulate to a dismissal with prejudice of plaintiffs’ actions by 5:00pm on February 6, 2019. Defendants’ counsel indicated that if an agreement was not reached, Defendants would file a motion to dismiss the cases with prejudice.

2. On February 5, 2019, Defendants’ counsel received a response from counsel for *Benson*, 17-cv-3304; *McKinney et al.*, 17-cv-1503; *Beard et al.*, 18-cv-0833; and *Hayes et al.*, 17-cv-2572 requesting more time to respond to the meet and confer. Defendants responded that they would file the motion in order to reserve a hearing at the next status conference, but would withdraw the motion as to these plaintiffs if a stipulation for dismissal with prejudice is reached in the future.

3. On February 6, 2019, Defendants’ counsel received responses from counsel for *Hylas*, 17-cv-0967 and counsel for *Bucci*, 17-cv-1073 indicating that they would not stipulate to a dismissal.

4. On February 6, 2019, Defendants received a phone call from counsel for plaintiff *Rhoton et al.*, 15-cv-4360, requesting extra time to comply with PTO 23. Counsel for Mr. Rhoton indicated that he had attempted to reach plaintiff and his relatives with no

success, that he could not recall his last interaction with plaintiff or his relatives, and that he was not sure if he had previously been informed of plaintiff's death before receiving Defendants' email. Counsel for the parties were not able to stipulate to a resolution of the matter.

5. On February 6, 2019, Defendants received an email from counsel for *Burch*, 17-cv-4288 indicating that they would not stipulate to a dismissal with prejudice.

6. On February 6, 2019 Defendants received an email from counsel for *Gohl*, 18-cv-1571 indicating that he did not agree with Defendants' interpretation of PTO 23 and would not stipulate to a dismissal.

7. On February 6, 2019 Defendants received an email from counsel for *Dollard*, 18-cv-0776 indicating that they have not been able to establish contact with plaintiff or her relatives, and are therefore not able to agree to dismissal with prejudice.

Hence, counsel for Plaintiffs and Defendants were unable to reach an agreement to stipulate to dismiss with prejudice any of the above cases.

Dated: February 7, 2019

Respectfully submitted,

s/Benjamin W. Hulse

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